IN THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF MISSISSIPPI NORTHERN DIVISION

| THE STATE OF MISSISSIPPI EX REL. |) |
|--|---------------------------|
| JIM HOOD, ATTORNEY GENERAL |) |
| FOR THE STATE OF MISSISSIPPI, |) |
| |) |
| Plaintiff-Counterclaim Defendant, |) |
| , |) No. 3:08-CV-780-CWR-LRA |
| v. |) |
| |) |
| ENTERGY MISSISSIPPI, INC., ENTERGY |) |
| CORPORATION, ENTERGY SERVICES, |) ORAL ARGUMENT REQUESTED |
| INC., AND ENTERGY POWER, INC., |) |
| , |) |
| Defendants-Counterclaim Plaintiffs. |) |

MOTION UNDER FEDERAL RULE OF EVIDENCE 702 TO PROHIBIT THE TESTIMONY OF PLAINTIFF'S EXPERT DR. DAVID DERAMUS ON ISSUES OF LIABILITY AND DAMAGES

Pursuant to Federal Rule of Evidence 702 and *Daubert v. Merrell Dow Pharmaceuticals*, *Inc.*, 509 U.S. 579 (1993), Defendants Entergy Corporation, Entergy Mississippi, Inc. ("EMI"), Entergy Services, Inc., and Entergy Power, Inc. (collectively, "Defendants") respectively move that the court exclude the testimony of Plaintiff's expert Dr. David DeRamus. Defendants respectfully request oral argument.

This motion is based on the ground that Dr. DeRamus lacks the necessary operational and energy purchasing expertise to opine on certain assumptions—(1) EMI could have made additional purchases of energy from Independent Power Producers without negatively impacting the reliability of the electricity grid, and (2) the additional purchases were available on the market at a moment's notice—that are necessary to support his damages methodology. To the extent Dr. DeRamus relies on Plaintiff's other experts, Dr. Spencer Yang and Neil Copeland, those experts' analyses fail to provide sufficient information to validate those assumptions. Dr. DeRamus's

damages models are also unreliable because they rely on unrealistic speculation regarding system dispatch and the wholesale power market. Thus, Dr. DeRamus's testimony should be stricken under *Daubert* and Rule 702.

In support of this motion, Defendants attach the following exhibits:

| Exhibit A | Deposition Transcript of Dr. David DeRamus (Feb. 23, 2018) (excerpts) [to be filed under seal] |
|-----------|---|
| Exhibit B | Deposition Transcript of Spencer S. Yang (Feb. 22, 22, 2018) (excerpts) [to be filed under seal] |
| Exhibit C | Expert Report of Eugene T. Meehan (Mar. 5, 2018) [to be filed under seal] |
| Exhibit D | Deposition Transcript of Mr. Neil Copeland (Feb. 21, 2018) (excerpts) [to be filed under seal] |
| Exhibit E | MPSC Docket 2011-UA-376, Joint Application of Entergy Mississippi, Inc., and the Midwest Independent Transmission System Operator, Inc., for Transfer of Functional Control of Entergy Mississippi's Transmission Facilities to MISO, Order (Nov. 15, 2012) |

In further support of this motion, Defendants will file a memorandum brief, the arguments and authorities in which are incorporated in this motion by reference.

RESPECTFULLY SUBMITTED, this 20th day of June, 2018.

ENTERGY MISSISSIPPI, INC., ENTERGY CORPORATION, ENTERGY SERVICES, INC. AND ENTERGY POWER, INC., Defendants

By /s/ Roy D. Campbell, III

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CERTIFICATE OF SERVICE

I do hereby certify that I have this day electronically filed the foregoing with the Clerk of the Court using the ECF system which will send notification of such filing to all counsel of record.

This 20th day of June, 2018.

/s/ Roy D. Campbell, III
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